

1 GEORGE A. RILEY (S.B. No. 118304)
SANDEEP N. SOLANKI (S.B. No. 244005)
2 VIVI T. LEE (S.B. No. 247513)
O'MELVENY & MYERS LLP
3 Two Embarcadero Center
28th Floor
4 San Francisco, California 94111-3828
Telephone: (415) 984-8700
5 Facsimile: (415) 984-8701
E-Mail: griley@omm.com
6 ssolanki@omm.com
vlee@omm.com

7
8 Attorneys for Defendant APPLE INC.
9

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**

13 IN RE APPLE INC. SECURITIES
14 LITIGATION

Case No. C06-05208-JF

CLASS ACTION

15 THIS DOCUMENT RELATES TO:
16 ALL ACTIONS
17
18
19
20
21
22
23
24
25
26
27
28

**SUPPLEMENTAL DECLARATION OF
VIVI LEE IN SUPPORT OF MOTION
FOR FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND PLAN OF
ALLOCATION**

SUPPLEMENTAL DECLARATION OF VIVI LEE

I, VIVI LEE, declare as follows:

1. I am an attorney duly licensed before all of the courts of the State of California and the United States District Court for the Northern District of California. I am an associate in the law firm of O'Melveny & Myers LLP, counsel of record for defendant Apple Inc. ("Apple"). I make this supplemental declaration in support of the Motion for Final Approval of Class Action Settlement and Plan of Allocation. I have personal knowledge of the matters stated herein and, if called upon, could competently testify thereto.

2. On February 4, 2011, Apple electronically filed its reply papers in support of the motion for final approval of the Settlement and Plan of Allocation. That same day, Apple served its reply papers on all six of the purported shareholders who submitted objections to the Settlement (the "Objectors"). Specifically, I sent copies of Apple's reply papers by Federal Express, next business day delivery, to (i) Gary Sibley (counsel for Dr. George Sibley), (ii) Charles Kyriazos, (iii) Winston Gouzoules, (iv) Fred Fekrat, and (v) Marshall J. Orloff and Ann S. Orloff. I also informed these five objectors that the Clerk had continued the Settlement Fairness Hearing from February 18, 2011, to February 25, 2011, at 9:00 a.m. Attached hereto as **Exhibits 1 and 2** are true and correct copies of the letters I sent to the five objectors and a Certificate of Service, respectively.

3. The sixth objector, Theodore Frank, counsel for objector Patrick Pezzati, is registered to receive automated service of all electronic Court filings in this case. Nevertheless, my colleague, Sandeep Solanki, emailed copies of Apple's reply papers to Mr. Frank on February 4, 2011. Attached hereto as **Exhibit 3** is a true and correct copy of Mr. Solanki's February 4, 2011 email to Mr. Frank (without exhibits). Counsel for the parties have subsequently communicated with Mr. Frank regarding his fee request and certain statements in Lead Plaintiff's reply papers.

4. On February 8, 2011, the Claims Administrator posted Apple's reply papers, as well as Lead Plaintiff's reply papers, to the Settlement website, www.AppleSecuritiesSettlement.com.

1 5. On February 8, 2011, I received an email from Charles Kyriazos acknowledging
2 receipt of Apple's reply papers. Mr. Kyriazos stated that he "just didn't see merit in this lawsuit,
3 and that's what I wished to convey to the Court and plaintiff's counsel." Attached hereto as
4 **Exhibit 4** is a true and correct copy of Mr. Kyriazos's February 8 email.

5 6. On February 10, 2011, I received a telephone call from Gary Sibley, counsel for
6 objector Dr. George Sibley. Gary Sibley stated he had reviewed the papers submitted by the
7 parties in support of final approval and Lead Plaintiff's motion for attorneys' fees and expenses.
8 Gary Sibley stated that he had no objection to the terms of the Settlement or the attorneys' fees
9 motion. He said his only objection was to the timeliness of the Notice. Gary Sibley stated that he
10 understood that any delay in Class Members' receipt of the Notice was caused by nominees and
11 not the parties or the Claims Administrator. Gary Sibley asked that the parties issue another
12 notice to Class Members and extend the hearing date, as Dr. Sibley did in his original objection. I
13 told Gary Sibley that the parties already requested on February 1, 2011, that the Claims
14 Administrator inform Class Members who inquire about the January 21, 2011 deadline for
15 objections and exclusion requests that they may submit late objections or exclusion requests for
16 the Court's consideration.

17 7. As of February 24, 2011, I have not received, and, to my knowledge, no other
18 attorney for Apple has received, any other telephone calls or correspondence from the Objectors.
19 Nor have the Sibleys or the Orloffs sent me or, to my knowledge, any other attorney for Apple,
20 correspondence about the number of shares they purchased and sold during the Class Period, as
21 required by the Amended Preliminary Approval Order.

22 8. As stated in my February 4, 2011 declaration, I served copies of the Stipulation
23 and the amendments thereto on behalf of defendants to the U.S. Attorney General and the
24 attorneys general for the states and territories of the United States. As of February 24, 2011,
25 Apple has not received, and, to my knowledge, no other defendant has received, any objection to
26 the Settlement from the U.S. Attorney General or the attorney general of any state or territory.

27 9. Since February 4, 2011, Apple has not received any additional objections to the
28 Settlement.

